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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,964	12/08/2005	Adrianus Cornelis Van Asten	C4313(C)	6547

201 7590 03/13/2008

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EXAMINER	
DELCOTTO, GREGORY R	
ART UNIT	PAPER NUMBER
1796	

MAIL DATE	DELIVERY MODE
03/13/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/559,964	VAN ASTEN ET AL.	
	Examiner	Art Unit	
	Gregory R. Del Cotto	1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-17* is/are pending in the application.

4a) Of the above claim(s) *17* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *17* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *3/16/06*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-16, drawn to a bleaching composition, classified in class 510, subclass 376.

II. Claim 17, drawn to a method of bleaching a textile stain, classified in class 8, subclass 111.

The inventions are distinct, each from the other because of the following reasons:

Inventions of Group I and Group II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case, the composition of Group I can be used in a materially different method such as in a process of cleaning dishes.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their different classification;

(b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

(c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);

(d) the prior art applicable to one invention would not likely be applicable to another invention;

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected invention**.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Rimma Mitelman on February 28, 2008, a provisional election was made without traverse to prosecute the invention of Group I, claims 1-16. Affirmation of this election must be made by applicant in replying to this Office action. Claim 17 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder.

All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder**. Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO02/072747 in view of Severns et al (6,184,188) or Velazquez et al (US 6,458,754).

'747 teaches a bleaching composition which provides a bleaching composition comprising an organic ligand which forms a complex with a transition metal for bleaching a substrate with a group selected from atmospheric oxygen together with a surfactant having an allylic hydrogen and an antioxidant. See page 2, lines 1-15. The antioxidant is present in amounts from 0.001% to about 5% by weight and includes 2, 6-di-tert-butyl-4-methyl phenol, ascorbic acid, etc. See page 9, lines 10-30. The composition may be in the form of a powder, granule, past, gel, liquid. See page 25, lines 1-5 and page 27, lines 10-15. Note that, formulation A of '747, which is a liquid, contains a perfume in an amount of 0.47% by weight. See page 33, lines 1-20.

'747 does not teach the use of a ketone perfume or a composition containing a transition metal bleach catalyst, a ketone perfume, an antioxidant, and the other

requisite components of the composition in the specific amounts as recited by the instant claims.

Velazquez et al teach modified starch encapsulated perfume particles which consist of a modified starch and perfume oil encapsulated by the starch. The encapsulated perfume particles are particularly useful in laundry compositions. See Abstract. The laundry compositions contain from about 0.01% to 50% of a perfume particle. See column 2, lines 35-60. Suitable perfume oils include an oil which contains 5% by weight of Lilial, 5% by weight of Damascenone, etc. See column 5, line 55 to column 6, line 10.

Severns et al teach a fabric delivery system for liquid laundry detergent compositions which comprises a beta-ketoester. The laundry compositions also contain surfactants and carriers. See Abstract. The compositions contain from about 0.01% to about 15% by weight of a beta-ketoester pro-fragrance. See column 4, lines 10-25. Suitable ketones include Damascenone, etc. See column 12, lines 5-20.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use a ketone such as Damascenone in the composition taught by '747, with a reasonable expectation of success, because Velazquez et al or Severns et al teach the use of Damascenone in a similar cleaning composition and further, '747 teaches the use of perfumes in general.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a composition containing a transition metal bleach catalyst, a ketone perfume, an antioxidant, and the other requisite components of the

composition in the specific amounts as recited by the instant claims, with a reasonable expectation of success and similar results with respect to other disclosed components, because the broad teachings of '747 in combination with Velazquez et al or Severns et al suggest a composition containing a transition metal bleach catalyst, a ketone perfume, an antioxidant, and the other requisite components of the composition in the specific amounts as recited by the instant claims.

Claims 1-7, 9-14, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO00/52124 in view of Severns et al (6,184,188) or Velazquez et al (US 6,458,754).

'124 teaches a bleaching and laundry composition which contains a catalytically effective amount of a transition metal bleach catalyst, an antioxidant and carriers and adjunct ingredients wherein the composition is substantially free of peroxygen compounds. See Abstract. Antioxidants are used in amounts from 0.01% to about 5% by weight and include 2,6-di-tert-butyl-4-methylphenol, etc. See page 12, lines 1-20.

'747 does not teach the use of a ketone perfume or a composition containing a transition metal bleach catalyst, a ketone perfume, an antioxidant, and the other requisite components of the composition in the specific amounts as recited by the instant claims.

Velazquez et al and Severns et al are relied upon as set forth above.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use a ketone such as Damascenone in the composition taught by ''124, with a reasonable expectation of success, because Velazquez et al or Severns

et al teach the use of Damascenone in a similar cleaning composition and further, '747 teaches the use adjunct ingredients which would encompass perfume materials since perfumes are conventionally used in laundry detergent compositions and notoriously well-know to those of ordinary skill in the art.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a composition containing a transition metal bleach catalyst, a ketone perfume, an antioxidant, and the other requisite components of the composition in the specific amounts as recited by the instant claims, with a reasonable expectation of success and similar results with respect to other disclosed components, because the broad teachings of '124 in combination with Velazquez et al or Severns et al suggest a composition containing a transition metal bleach catalyst, a ketone perfume, an antioxidant, and the other requisite components of the composition in the specific amounts as recited by the instant claims.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO00/52124 in view of Severns et al (6,184,188) or Velazquez et al (US 6,458,754) as applied to claims 1-7, 9-14, and 16 above, and further in view of WO02/072747.

'124, Severns et al, and Velazquez et al are relied upon as set forth above. However, none of the references teach the use of ascorbic acid in addition to the other requisite components of the composition as recited by the instant claims.

'747 is relied upon as set forth above.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use ascorbic acid in the composition taught by '124, with a

reasonable expectation of success, because '747 teaches the equivalence of ascorbic acid to 2,6-di-tert-butyl-4-methylphenol as an antioxidant in a similar composition and further, '124 teaches the use of 2,6-di-tert-butyl-4-methylphenol.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO98/39406.

'406 teaches laundry or cleaning composition containing a catalytically effective amount of a transition metal bleach catalyst and at least about 0.1% of one or more laundry or cleaning adjunct materials. See Abstract. In preferred embodiments, the compositions contain 0.1% of a primary oxidant and at least about 0.001% of a bleach-promoting adjunct. See page 21, lines 1-20. Antioxidants may be in the compositions such as 2,6-di-tert-butyl-4-hydroxytoluene, ascorbic acid, etc. See page 88, lines 1-30. The compositions may be in any form such as a liquid, granular, tablet, etc. See page 134, lines 30-35. Perfumes may also be used in the compositions including ketones, aldehydes, etc. Finished perfumes typically comprise from about 0.01% to about 2% by weight of the detergent compositions and individual perfumery ingredients can comprise from about 0.0001% to about 90% of a finished perfume composition. See page 130, line 30 to page 131, line 5.

'406 does not teach a composition containing a transition metal bleach catalyst, a ketone perfume, an antioxidant, and the other requisite components of the composition in the specific amounts as recited by the instant claims.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a composition containing a transition metal bleach

catalyst, a ketone perfume, an antioxidant, and the other requisite components of the composition in the specific amounts as recited by the instant claims, with a reasonable expectation of success and similar results with respect to other disclosed components, because the broad teachings of '406 suggest a composition containing a transition metal bleach catalyst, a ketone perfume, an antioxidant, and the other requisite components of the composition in the specific amounts as recited by the instant claims.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO98/39406 as applied to claims 1-15 above, and further in view of Severns et al (6,184,188) or Velazquez et al (US 6,458,754).

'406 are relied upon as set forth above. However, '406 does not teach the use of a ketone such as Damascenone in addition to the other requisite components of the composition as recited by the instant claims.

Velazquez et al and Severns et al are relied upon as set forth above.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use a ketone such as Damascenone in the composition taught by '406, with a reasonable expectation of success, because Velazquez et al or Severns et al teach the use of Damascenone in a similar cleaning composition and further, '406 teaches the use of ketone perfume ingredients in general.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Remaining references cited but not relied upon are considered to be cumulative to or less pertinent than those relied upon or discussed above.

Applicant is reminded that any evidence to be presented in accordance with 37 CFR 1.131 or 1.132 should be submitted before final rejection in order to be considered timely.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (571) 272-1312. The examiner can normally be reached on Mon. thru Fri. from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory R. Del Cotto/
Primary Examiner, Art Unit 1796

/G. R. D./
March 3, 2008